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OFFICE OF PETITIONS

In re Application of :
Andrew L. Bliss et al :
Application No. 09/681,064 : DECISION GRANTING PETITION
Filed: December 15, 2000 : UNDER 37 CFR 1.137(b)
Attorney Docket No. MSFT-0218 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 14, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Request for Continued Examination (RCE), the \$790 fee therefor, and submission as required by 37 CFR 1.114; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of September 10, 2004 is accepted as having been unintentionally delayed.

The instant petition is accompanied by a terminal disclaimer; however, the filing of a terminal disclaimer is unnecessary as a condition for revival. Note 37 CFR 1.137(d). Accordingly, the terminal disclaimer submitted with the petition will not be processed. The \$130 fee submitted therefor will be refunded to petitioner's deposit account.

As to the extension of time fee submitted with the petition, petitioner is advised that extensions of time under 37 CFR 1.136 are available only if asked for "prior to or with the response." In no case, however, may an applicant respond later than the maximum time period set by statute. Accordingly, if the question of abandonment arises when the provisions of 37 CFR 1.136 can no longer be used, then the application is abandoned when the unextended time for response expired. Therefore, no extension fees are due on a petition for revival. In view thereof, the extension of time fee submitted with the petition is unnecessary and will be refunded to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2192 for processing of the RCE and for appropriate action on the concurrently filed amendment.



Frances Hicks
Petitions Examiner
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Office of the Deputy Commissioner
for Patent Examination Policy